

186481  
**ORIGINAL**

**ELLIOTT & ELLIOTT, P.A.**  
ATTORNEYS AT LAW  
721 OLIVE STREET  
COLUMBIA, SOUTH CAROLINA 29205  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

SCOTT ELLIOTT

TELEPHONE (803) 771-0555  
FACSIMILE (803) 771-8010

June 4, 2007

RECEIVED  
2007 JUN -4 PM 2:27  
SC PUBLIC SERVICE  
COMMISSION

VIA HAND DELIVERY

Charles L. A. Terreni, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Application of Midland Utility, Inc., Requesting Approval of a Wholesale Wastewater Agreement with the Lexington County Joint Municipal Water & Sewer Commission  
Docket No.: *2007-223-S*

Dear Mr. Terreni:

Enclosed please find the original and fifteen (15) copies of the Application filed on behalf of Midlands Utility, Inc. I have enclosed an extra copy of this application, which I would ask you to date stamp and return to me via my courier.

If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.



Charles H. Cook

CHC/jcl

Enclosure

cc: C. Dukes Scott, Esquire

ORIGINAL

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

DOCKET NO. \_\_\_\_\_

IN RE:

Application of MIDLANDS UTILITY, INC., )  
requesting approval of a Wholesale Wastewater )  
Agreement with the LEXINGTON COUNTY )  
JOINT MUNICIPAL WATER & SEWER )  
COMMISSION. )

APPLICATION

RECEIVED  
2007 JUN -4 PM 2:28  
SC PUBLIC SERVICE  
COMMISSION

Pursuant to S.C. Code Ann. §58-5-210 and 26 S.C. Code Ann. Regs. 103-503 and 103-541 Midlands Utility, Inc. ("Midlands") does hereby request the South Carolina Public Service Commission ("Commission") to determine whether a certain Wholesale Wastewater Agreement entered into with the Lexington County Joint Municipal Water & Sewer Commission ("JOINT MUNICIPAL") is in the public interest and if in the public interest, to approve the terms of the Wholesale Wastewater Agreement and to authorize Midlands to comply with the terms required thereby. The Applicant would show as follows:

**MIDLANDS**

1. Midlands is a South Carolina closely held corporation which owns, operates and maintains certain wastewater treatment facilities and sewer systems in Fairfield, Lexington, Orangeburg and Richland Counties. In particular, Midlands serves approximately 143 residents in and near the Windy Hill Subdivision in Lexington County.

2. Midlands is a public utility as defined by S.C. Code Ann. §58-5-10 (4), under the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-210 and S.C. Code Ann., Regs. R 103-503, 103-504 and 103-541.

3. Midland's office is located at 816 East Main Street, Lexington, South Carolina with a mailing address as follows:

Midlands Utility, Inc.,  
ATTN: Keith G. Parnell, President  
P. O. Box 887  
Lexington, South Carolina 29072

### **JOINT MUNICIPAL**

4. JOINT MUNICIPAL was created under provisions of the Joint Municipal Water Systems Act. It consists of Eleven (11) members, including the County of Lexington, City of Cayce, Town of Pelion, Town of Swansea, City of West Columbia, Town of Batesburg-Leesville, Town of Springdale, Town of Gaston, the Gilbert-Summit Rural Water District, Town of Lexington, and Town of South Congaree.

5. JOINT MUNICIPAL provides water and wastewater services to certain unincorporated areas of Lexington County and wholesale services to certain municipalities in Lexington County. JOINT MUNICIPAL provides reliable high quality supplies of potable water used for drinking, irrigation, fire protection and other purposes as well as wastewater collection and treatment services.

### **WHOLESALE WASTEWATER AGREEMENT**

6. Midlands has entered a Wholesale Wastewater Agreement with JOINT MUNICIPAL, which is subject to the approval of this Commission, the terms of which require, *inter alia*, that JOINT MUNICIPAL accept 34,320 gallons per day of wastewater from 143 residential

customers in the Windy Hill Subdivision. After connecting to JOINT MUNICIPAL's wastewater force main system, Midlands will provide collection-only services to its customers in the Windy Hill Subdivision. By the terms of the agreement, JOINT MUNICIPAL will charge Midlands a wholesale rate for the transportation and treatment of its wastewater. The initial wholesale flat rate of \$2.50 per 1,000 gallons is subject to wholesale rate revisions by JOINT MUNICIPAL but will not be increased for a minimum of twelve (12) months. Any future increases in the wholesale rate will not exceed any percentage increase imposed on JOINT MUNICIPAL's retail wastewater customers.

7. Under the terms of the Wholesale Wastewater Agreement, a customer in the Windy Hill Subdivision will be billed a monthly charge of \$41.03. Midland's is currently charging these customers its Phase I charge of \$37.90 per month. Under the parties' Wholesale Wastewater Agreement, once approved by this Commission, the Windy Hill Subdivision customers will be charged Midlands' collection-only fee of \$23.03, plus JOINT MUNICIPAL's charge of \$18.00 based upon the maximum average permitted by the South Carolina Department of Health and Environmental Control ("DHEC") which will be passed on to customers without markup. A fully executed copy of this WHOLESAL WASTEWATER AGREEMENT is attached and incorporated herein as "EXHIBIT A".

8. Copies of all pleadings, orders or correspondence in this proceeding should be served upon the attorneys listed below:

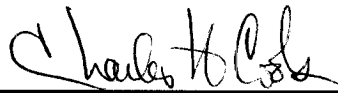
Elliott & Elliott, P.A.  
Charles H. Cook  
Scott Elliott  
721 Olive Street  
Columbia, S. C. 29205  
Tel: 803-771-0555  
Fax: 803-771-8010

WHEREFORE, Midlands Utilities, Inc. respectfully requests that this Commission:

- a. determine whether the proposed Wholesale Wastewater Agreement between Midlands Utilities, Inc. and The Lexington County Joint Municipal Water & Sewer Commission is in the public interest, and if in the public interest, approve the terms of the Wholesale Wastewater Agreement and authorize Midlands to comply with the terms required thereby and to charge the fees set out therein consistent with its tariff and with the Commission's statutes, regulations and orders appertaining thereto; and
- b. grant such other and further relief as this Commission deems fit and proper.

Respectfully submitted,

ELLIOTT & ELLIOTT, P.A.



---

Charles H. Cook, Esquire  
Scott Elliott, Esquire  
721 Olive Street  
Columbia, SC 29205  
803-771-0555  
803-771-8010

Columbia, South Carolina  
June 4, 2007

STATE OF SOUTH CAROLINA     )

**WHOLESALE WASTEWATER  
AGREEMENT**

COUNTY OF LEXINGTON     )

This agreement made and entered into this 10<sup>th</sup> day of April, 2007, by and between the Lexington County Joint Municipal Water and Sewer Commission, in the County of Lexington and State of South Carolina (hereinafter referred to as the "Commission") and Midlands Utility, Inc., of the State of South Carolina (hereinafter referred to as the "Utility") is subject to and conditioned upon its being approved by the South Carolina Public Service Commission "PSC".

WITNESSETH:

WHEREAS, the Utility owns, operates and maintains a wastewater collection and treatment system serving customers in the Windy Hill Subdivision; and

WHEREAS, the Utility wishes to close-out its treatment facilities and discharge via a pump station and force main connection to the Commission's wastewater collection and transportation system, for treatment; and

WHEREAS, the Commission has sufficient capacity to accept and treat the wastewater from the Utility.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, the following shall apply and constitute agreement hereby:

A. The Commission agrees;

1. To accept, initially, up to an average flow of 34,320 gallons per day of wastewater from the Utility, subject to Utility's payment of \$137,280 capacity fee concurrent with the connection to Commission's system in accordance with C.2 hereinbelow.
2. The point of connection to the Commission's wastewater force main system shall be at locations convenient to the Utility's and Commission's systems, near the intersection of Muddy Springs Road and Crosshill Road, and as shown on construction drawings to be prepared by HPG and Company, Consulting Engineers, Inc. The Commission reserves the right to approve these drawings prior to connection, such approval not to be withheld unreasonably.
3. To be responsible for transportation of the Utility's wastewater from the Utility's point of connection with the Commission's system, and in conformance with applicable laws and regulations of the State of South Carolina and the US Environmental Protection Agency, as now exists and as may be amended in the future.
4. To send to the Utility, on or about the first day of each month, an itemized statement for the transportation and treatment of wastewater handled by the Commission for the Utility during the preceding month. The amount shall be calculated based upon the number of 1,000 gallons of wastewater metered at the connection to the Commission's system.

**EXHIBIT A**

5. To charge the Utility a wholesale rate for the transportation and treatment of its wastewater. The wholesale rate shall be a flat rate per 1,000 gallons of wastewater metered at the connection of the Utility to the Commission. The initial wholesale rate shall be equal to \$2.50 per 1,000 gallons, and is subject to wholesale rate revisions by the Commission. The Commission agrees that the initial rate will not be increased for a minimum of twelve (12) months after discharge from the Utility's system is initiated. Further, the Commission agrees that any future increase in the wholesale rate will not exceed any percentage increase the Commission may impose on its retail wastewater customers.

B. The Utility agrees;

1. To construct, own, operate and maintain the pump stations and lines within the Utility's system; and to construct, own, operate and maintain the pump station and force main up to the connection point to the Commission; to construct, and turn over to the Commission to own, operate and maintain a meter at the connection point to the Commission, and other items necessary for connection to the Commission's system at the location described. The Commission will have the right to review and approve the design and construction of this connection and the metering station. The Utility shall have access to the meter during normal working hours, upon request, and may be present for any reading and for any maintenance work conducted by the Commission. The meter shall be checked for accuracy with industry standards every six (6) months and upon the request of either party when abnormal readings are suspected. Utility may request a meter accuracy test at any time. In the event that it shall be determined that the meter is functioning properly, the cost of such interim test shall be paid by Utility; otherwise, the cost of such test shall be paid by the Commission. In the event of meter malfunction within the first year of operation, billing charges shall be based upon historical flow data provided by the Utility from discharge monitoring reports (DMR's) for the same period during the prior year. In the event of meter malfunction after the first full year, billing charges will be based upon the metered usage for the same calendar period during the prior year.
2. To abide by all wastewater system regulations of the Commission now and in the future.
3. To pay the Commission, not later than the 25<sup>th</sup> of each month, for wastewater metered through the Utility's meter station. (Failure to pay amount due within fifteen (15) days thereafter shall result in termination of service at the discretion of the Commission. Past due amounts shall accrue interest at the rate of one and one-half (1 ½) percent per month (18% annually) subject to change with notice.
4. To have a Non-Domestic Waste Survey completed by any new or existing Non-Domestic customers and provide a copy to the Commission. The term Non-Domestic shall apply to any building, structure or establishment not intended for residential occupancy.
5. Not to allow any Non-Domestic customer access to its wastewater system unless that customer's discharge meets current requirements of the Commission's wastewater system.

C. It is further mutually agreed by and between the Utility and the Commission as follows:

1. That this agreement shall extend from the date of the initial delivery of wastewater and thereafter may be renewed or extended for such terms as may be mutually agreed upon by the Utility and the Commission, unless terminated by the Utility and/or the Commission.
2. The Commission will receive a capacity / impact fee of \$1,200.00 per residential equivalent (240 gallons per day, based upon 143 taps, in accordance with SCDHEC Unit Contributory Guidelines) connecting to the Commission's system.
3. The Commission will receive a capacity / impact fee for each new connection made to the Utility's system in excess of the capacity initially purchased by the Utility.
4. Any future increases in the Utility's flow to the Commission's system shall be contingent upon capacity being available in the Commission's wastewater system.
5. That 60 days prior to the estimated date of completion of construction of the Utility's improvements to make the connection, the Utility shall notify the Commission of the estimated date for the initial delivery of wastewater.
6. The Commission will accept from the Utility the discharge from its existing wastewater treatment facilities as required by SCDHEC as part of the Utility's approved close-out plan for the facilities. That wastewater will be gradually discharged to the Commission's system over a period not exceeding nine (9) months at a discharge rate and schedule mutually agreed upon by the two parties. The Commission will charge the Utility a volume rate for this discharge. This rate is to be \$2.75 per 1,000 gallons, subject to approval by the Commission of an acceptable metering plan which would separate this flow from other flow being discharged into the Commission's system as provided for herein.
7. That this Agreement is subject to such rules, regulations or laws that may be applicable to similar agreements in this state and the Utility and Commission will collaborate in obtaining such permits, certificates or the like as may be required to comply therewith.
8. That in the event of any occurrence rendering the Utility or the Commission incapable of performing under this Agreement, any successors of the two parties, whether the result of legal process, assignment or otherwise, shall succeed to the rights hereunder.
9. This Agreement shall inure to the benefit of and be binding upon the Commission and the Utility and their respective successors and/or assigns.



10. This Agreement may not be amended, changed, modified, or terminated without the express written consent of the parties hereto.

11. No waiver or breach of any terms of this Agreement shall be construed to be a waiver of any subsequent breach or prior breach.

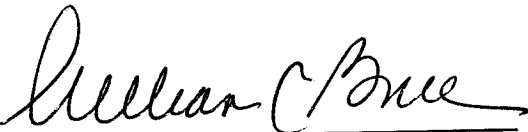
D. Lagoon Closeout and Sampling

1. The Utility will be responsible for all cost and requirements for the permitting, closeout, inspections, and final inspection required by local, state and federal governments. The Utility will provide copies to the Commission.
2. The Utility will do sampling as required by the Commission for liquids pumped out of the Lagoon during closeout.
3. The Utility will not discharge to the Commission any waste that has strength greater than Domestic limits or as stated in this paragraph, PH 7.0, BOD 250mg/l, TSS 250mg/l, NH<sub>3</sub> 25mg/l.
4. The Utility will do TCLP Testing on a weekly basis once any dewatering process is being utilized.
5. The Utility agrees to do sampling as required by the Commission of its discharge into the Commission system, and will pay any surcharges that would be generated out of high strength waste.


IN WITNESS WHEREOF, the parties hereto, acting under the authority of their respective governing bodies, have caused this Agreement to be duly executed in two counterparts, each of which shall constitute an original.

LEXINGTON COUNTY JOINT  
MUNICIPAL WATER AND SEWER  
COMMISSION

ATTEST:

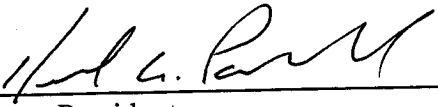


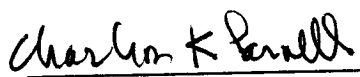
General Manager

  
(Seal)

MIDLANDS UTILITY, INC.

ATTEST:

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
(Seal)

ORIGINAL

# CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that (s)he has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of the same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Application of Midlands Utility, Inc., requesting approval of a Wholesale Wastewater Agreement with the Lexington County Joint Municipal Water & Sewer Commission.

DOCKET No.

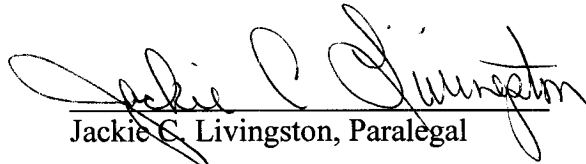
PARTIES SERVED:

C. Dukes Scott, Esquire  
Office of Regulatory Staff  
P. O. Box 11263  
Columbia, SC 29211

RECEIVED  
2007 JUN -4 PM 2:28  
SC PUBLIC SERVICE  
COMMISSION

PLEADING: APPLICATION

June 4, 2007

  
Jackie C. Livingston, Paralegal